IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 793 OF 2004
IN
Summary SUIT NO. 2170 OF 2004

Mr. Rameshkumar Dharamchand Jain .... Plaintiff
vs.
M/s. Coimbatore Metal Mart ... Defendant

Yashpal Jain for Plaintiff
S. S. Swami for defendant

CORAM: S. U. KAMDAR J.

Date: 28/9/2005

P.C.

1. The present suit is filed in respect of the goods sold supplied and delivered to the defendant. The invoices are set at Exhibits A to A6. The goods are duly received by the defendant. Total claim is Rs.2,41,117/-, including interest. Summons for Judgment is served on the defendant, but no reply is fled. Learned advocate for the defendant states that the reply to Summons for Judgment was sent for affirmation but they have not returned the same. He further states that they have already taken his no objection and he has no instructions in the matter. However, he contends that on merits the present suit is not maintainable as a summary suit as it is not based on any hundi, bill of exchange or on any Negotiable Instruments.

2. It is well settled that the suit for the goods sold and delivered based on invoice and delivery challans constitutes a written contract and therefore the suit based on a written contact is maintainable. He further contends that some person whose name is not disclosed has confirmed the liability. There is nothing on record to support his contention. In this view of the matter Summons for Judgment made absolute. Suit decreed as prayed. Refund of court fees as per rules.

(S. U. KAMDAR J.)